

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
ANN MARIE KNEIS  
  
**(b)** County of Residence of First Listed Plaintiff ERIE  
*(EXCEPT IN U.S. PLAINTIFF CASES)*  
  
**(c)** Attorneys *(Firm Name, Address, and Telephone Number)*  
MEYERS BUTH LAW GROUP, PLLC, 21 Princeton Place, Orchard Park,  
NY 14127 (716) 508-8598

**DEFENDANTS**  
UNITED STATES OF AMERICA  
  
County of Residence of First Listed Defendant \_\_\_\_\_  
*(IN U.S. PLAINTIFF CASES ONLY)*  
  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.  
  
Attorneys *(If Known)*

**II. BASIS OF JURISDICTION** *(Place an "X" in One Box Only)*  
☐ 1 U.S. Government Plaintiff  
☐ 3 Federal Question *(U.S. Government Not a Party)*  
☒ 2 U.S. Government Defendant  
☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

**III. CITIZENSHIP OF PRINCIPAL PARTIES** *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** *(Place an "X" in One Box Only)*  

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input checked="" type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

**V. ORIGIN** *(Place an "X" in One Box Only)*  
☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from Another District *(specify)*  
☐ 6 Multidistrict Litigation - Transfer  
☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**  
Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:  
28 USC 1346  
Brief description of cause:  
medical malpractice arising from treatment at VA suit against USA under FTCA

**VII. REQUESTED IN COMPLAINT:**  
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.  
DEMAND \$ 950,000  
CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY** *(See instructions):*  
JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE 08/06/2020  
SIGNATURE OF ATTORNEY OF RECORD  
s/ PATRICK J. MALONEY, ESQ.

FOR OFFICE USE ONLY  
RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_  

Print Save As... Reset

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

ANN MARIE KNEIS,

*Plaintiff,*

vs.

**COMPLAINT**

UNITED STATES OF AMERICA,

*Defendant.*

---

Plaintiff, ANN MARIE KNEIS, by and through her attorneys, MEYERS BUTH LAW GROUP PLLC, PATRICK J. MALONEY, ESQ., of counsel, for her complaint, alleges upon information and belief that:

1. Plaintiff, ANN MARIE KNEIS is a citizen of the United States of America and a resident of the State of New York, County of Erie, residing at 62 Vern Lane, Cheektowaga, NY 14227.

2. Defendant, at all times hereinafter mentioned, owns and operates the VETERANS ADMINISTRATION MEDICAL CENTER (VAMC), located in Buffalo, Erie County, New York.

3. Venue in the Western District of New York is proper pursuant to 28 USC §1391(b)(2) on the basis that a substantial part of the acts or omissions giving rise to the claim occurred within the jurisdiction of said judicial district.

4. The amount in controversy, exclusive of interests and costs, is in excess of \$75,000.

5. This action arises out of the Federal Tort Claims Act (FTCA), 28 USC §1346. Pursuant to the FTCA, plaintiff presented her claim to the Buffalo VAMC, the federal agency out of whose activities the claim arose.



6. The administrative claim was received by the Buffalo VAMC on August 16, 2019, and the claim was denied from the U.S. Department of Veterans Affairs Office of General Counsel via certified mail, dated April 14, 2020, and less than six (6) months has elapsed since the receipt of said denial. This complaint is therefore mature and timely to be presented to this Court pursuant to 28 USC §2675 and 28 USC §2401(b).

7. Plaintiff has duly complied with all conditions precedent to the commencement of this action.

8. On or about February 22, 2017, plaintiff presented to the Buffalo VAMC for right medial knee replacement surgery. Plaintiff treated post-op at the Buffalo VAMC on April 6<sup>th</sup>, 12<sup>th</sup>, 19<sup>th</sup>, 25<sup>th</sup> and 27<sup>th</sup>.

9. As a result of issues following the surgery of February 22, 2017, a right total knee replacement was done on August 23, 2017 at the Buffalo VAMC.

10. The defendant, by and through its agents, servants and employees at the Buffalo VAMC, negligently, carelessly, and unskillfully rendered medical care to Ms. Kneis.

11. As a direct and proximate result of defendant's negligence, plaintiff suffers from a continued inability to walk on the affected knee, has had to undergo two additional surgical procedures, therapy, medication, confinement to a wheelchair and will be unable to ambulate properly in the future.

WHEREFORE, plaintiff demands judgment against the defendant in the amount of NINE HUNDRED FIFTY THOUSAND DOLLARS (\$950,000) together with interests and costs.

Dated: July 29, 2020  
Orchard Park, New York

Respectfully submitted,

/s/ Patrick J. Maloney

---

PATRICK J. MALONEY, ESQ.  
MEYERS BUTH LAW GROUP, PLLC  
*Attorneys for Plaintiff*  
21 Princeton Place, Suite 105  
Orchard Park, NY 14127  
(716) 508-8598